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5                   UNITED STATES DISTRICT COURT  
6                   EASTERN DISTRICT OF WASHINGTON  
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8                   CAMERON SCOTT GRIFFIN,  
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No. 2:14-cv-00074-JTR

10                  Petitioner,

11                  vs.  
12                  UNITED STATES OF AMERICA,  
13                  Respondent.

14                  ORDER ADOPTING REPORT AND  
15                  RECOMMENDATION AND  
16                  TRANSFERRING ACTION TO  
17                  DISTRICT OF IDAHO

18                  Magistrate Judge Rodgers filed a Report and Recommendation on April 8,  
19                  2014, recommending Mr. Griffin's action pursuant to the Administrative Procedure  
20                  Act, 5 U.S.C. § 702, be transferred to the United States District Court for the  
21                  District of Idaho pursuant to 28 U.S.C. § 1631, ECF No. 4. Petitioner is a  
22                  federal prisoner at the La Tuna Federal Correctional Institution Satellite Low in  
23                  Anthony, New Mexico, serving a 168 month sentence for drug violations in the  
24                  United States District Court, District of Idaho, cause number 3:06-cv-00067-EJL.  
25                  Petitioner is proceeding *pro se* in this action and seeks leave to proceed *in forma*  
26                  *pauperis*. None of the documents submitted by Petitioner contain his original  
27                  signature.

28                  ORDER ADOPTING REPORT AND RECOMMENDATION AND  
                        TRANSFERRING ACTION TO DISTRICT OF IDAHO -- 1

1 By this action, Mr. Griffin seeks the return of property forfeited in the Idaho  
2 criminal proceedings. On April 15, 2014, he filed a “Response,” which the Court  
3 liberally construes as his Objection to the Report and Recommendation. ECF No.  
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5. Petitioner clarifies that he is seeking the return of property allegedly unlawfully  
6 seized and forfeited in violation of 21 U.S.C. § 853. He asserts that there is no  
7 pending criminal action against him and he has filed this action “in the district  
8 where the property was seized” as required by Federal Rule of Criminal Procedure  
9 41(g).  
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12 Petitioner cites to *Ramsden v. United States*, for the proposition that “district  
13 courts have the power to entertain motions to return property seized by the  
14 government when there are no criminal proceedings pending against the movant.”  
15 2 F.3d 322, 324 (9th Cir.1993) (construing former Rule 41(e)). He asserts that the  
16 Eastern District of Washington is the appropriate forum in which to seek relief  
17 because the property (i.e., money, a boat and a boat trailer, 44 miscellaneous  
18 firearms, and cash as substitute asset for vehicles) was seized in this district.  
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21 Here, Mr. Griffin was fully prosecuted and is serving a federally imposed  
22 sentence from of the District of Idaho. He makes no assertion that this conviction  
23 and sentence have been vacated. Court records show that Mr. Griffin previously  
24 filed a Rule 41(g) motion in his criminal proceeding in 2006. *See* 3:06-cr-00067-  
25 EJL, ECF No. 81. A Preliminary Order of Forfeiture was entered on October 31,  
26 ORDER ADOPTING REPORT AND RECOMMENDATION AND  
27 TRANSFERRING ACTION TO DISTRICT OF IDAHO -- 2  
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1 2008, and a Final Order of Forfeiture was issued on May 1, 2009. *Id.*, ECF Nos.  
2 226 and 261. A Rule 41(g) motion is not the appropriate means of collaterally  
3 challenging a criminal judgment of forfeiture. *See e.g., Young v. United States*,  
4 489 F.3d 313, 315 (7th Cir. 2007) (holding that a defendant cannot use Rule 41(g)  
5 to challenge a criminal forfeiture order). Rule 41(g) only permits the recovery of  
6 property that has been seized as evidence, not property that has been forfeited to  
7 the government. *See e.g. United States v. Eubanks*, 169 F.3d 672, 674 (11th  
8 Cir.1999); *Young*, 489 F.3d at 315. Petitioner makes no assertion that the Idaho  
9 forfeiture order has been vacated.

10 Because all forfeiture proceedings under 21 U.S.C. § 853(a)(1) and (2) were  
11 part of his federal criminal proceeding in the District of Idaho, this Court finds no  
12 proper basis to exercise equitable jurisdiction. Any dispute Petitioner may have  
13 with the adequacy of the criminal forfeiture proceedings lies in the District of  
14 Idaho or an appropriate appellate court. It is not proper to ask a sister jurisdiction  
15 to adjudicate claims which were not previously adjudicated to Petitioner's  
16 satisfaction in the District of Idaho.

17 Accordingly, for the reasons set forth above and by the Magistrate Judge, **IT**  
18 **IS ORDERED** the Report and Recommendation, ECF No. 4, is **ADOPTED in its**  
19 **entirety** and the District Court Executive shall **TRANSFER** this action to the  
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ORDER ADOPTING REPORT AND RECOMMENDATION AND  
TRANSFERRING ACTION TO DISTRICT OF IDAHO -- 3

1 United States District Court, District of Idaho. This Court has made no  
2 determination regarding Petitioner's application to proceed *in forma pauperis*.  
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4 **IT IS SO ORDERED.** The District Court Executive is directed to enter this  
5 Order, and forward a copy to Petitioner. The District Court Executive is further  
6 directed to forward this file with a copy of this Order to the Clerk of the United  
7 States District Court for the District of Idaho, and close the file in this district. The  
8 District Court Executive shall also provide a courtesy copy to Michael C. Ormsby,  
9 U.S. Attorney for the Eastern District of Washington.  
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11 **DATED** this 6th day of May 2014.  
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15 s/ Rosanna Malouf Peterson  
16 ROSANNA MALOUF PETERSON  
17 Chief United States District Court Judge  
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ORDER ADOPTING REPORT AND RECOMMENDATION AND  
TRANSFERRING ACTION TO DISTRICT OF IDAHO -- 4